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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL BAIL APPLICATION NO.1970 OF 2004

IN

CRIMINAL APPEAL NO. 586 OF 2004

Shri Leela Karsan Waghari & ors... Applicants

versus

The State of Maharashtra .. Respondents

...

Mr.P.D. Gharat for the applicants.

Mr.A.M. Shringarpure, APP for the State.

CORAM : V.M. KANADE, J

DATED : 16th September 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the State.

2. The applicant has filed his application for

suspension of the sentence imposed by the trial Court and is seeking bail. The applicants are convicted for an offence punishable u/s.307 r/w sec.34 of the IPC and are sentenced to suffer RI for six years and to pay fine of Rs.1,000/-. They are also convicted under section 326 r/w sec.34 and sentenced to suffer RI for four years and to pay a fine of Rs.1,000/-.

3. The learned counsel appearing on behalf of the applicant submitted that from the perusal of the injuries which were inflicted on the complainant, the case would fall under section 326 and under section 307 of the IPC. He has brought to my notice the injury certificate issued by the Central Hospital, Ulhasnagar which shows that the complainant had suffered 3 injuries. One on the neck, second on the Sterno mastoid and third on the right hand. He submitted that the injuries were superficial in nature and they were not vital in the body. He submitted that from the hospital record, it was evident that the condition of the patient was normal and his blood pressure is shown as 100. He submitted that this is a fit case that the applicants are entitled to be released on bail. He further submitted that the applicant nos.1 and 2 are Senior citizens and

applicant nos.3 and 4 are suffering from various ailments.

4. I am unable to accept the submissions of the learned counsel for the applicant. I have perused the evidence of the injured victim PW no.1 who has given a graphic account regarding assault by the accused. He has stated that the accused was having weapon like knife in his hand. Accused no.2 was having a sharp edged weapon. Accused no.3 was having a chopper and accused no.4 was armed with a knife and gupti. He stated that accused no.3 inflicted the first blow of the chopper on his neck. Thereafter, the accused nos.1, 2 and 4 also started inflicting blows on him and as a result, he sustained injuries on his chest, back, head and on his neck. Similarly, he also received injury on his ear, on both his palms. When his brother Raju tried to rescue him, he was also assaulted with a gupti and knife. The appellate Court on the evidence adduced by the prosecution has convicted the accused under section 307 of the IPC.

5. In my view, this is not a fit case for suspension of sentence and for granting bail to the accused.

6. Application for bail and suspension of sentence is rejected.

V.M. KANADE, J